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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,969	11/09/2001	Edwin Evans	PHDL0640-001	3784

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EXAMINER

ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,969

Applicant(s)

EVANS, EDWIN

Examiner

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 13, 14, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 2 and 14 are objected to because of the following informalities: In claim 2, the claim identifier is incorrect and in claim 14, line 1, "isnertable" should be --insertable--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6, 7, 11, 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammond (US Patent 5,678,882) in view of a JEEP® Wrangler®.

Regarding claim 1, Hammond discloses a window system for use on a passenger compartment of a motor vehicle, the window system comprising: a flexible window (74) having a first window side, a second window side and a window perimeter area; a soft cover window frame (72) having an outside frame side and an inside frame side; and an insertable screen (76) having a first screen side and a second screen side and a bottom side; wherein the window perimeter area on the second window side (of 74) matingly couples with the first screen side (of 76), and the second screen side matingly couples with the inside window frame (see Fig. 10 and 26A).

Hammond does not disclose that the vehicle includes a convertible soft-covering system.

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A JEEP® Wrangler® is an example of a vehicle similar to the vehicle shown in Hammond with a convertible top and a door which would allow the flexible window of Hammond to be used.

It would have been obvious to one ordinary skill in the art at the time of the invention to use the window system of Hammond in a Jeep® Wrangler®. The motivation would have been to “provide superior ventilation within the vehicle while excluding inclement weather and flying insects” (Hammond- column 3, lines 28-32).

Regarding claim 2, Hammond discloses that the screen (76), the window frame and the flexible window can be joined together by “the mating of a fuzzy fabric with a hook fabric” (column 13, lines 47-49).

Regarding claims 3, 7 and 16, Hammond does not disclose the details of the material used for the screen. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a woven vinyl coated material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious mechanical expedient.

Regarding claims 6 and 15, Hammond discloses in Figure 26A that there are at least 3 window layers. It would have been obvious to one of ordinary skill in the art to use multiple screens. The motivation would have been to provide a tighter mesh to block the rain and insects better.

Regarding claims 11 and 12, it would have been obvious to one of ordinary skill in the art to rotate the second screen. The motivation would have been to block more insects, air and sunlight.

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4. Claims 4, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammond in view of the Applicant's Admissions.

Hammond disclose the window system of claims 1 and 6.

Hammond does not disclose that the screen blocks 55-95% of the sunlight.

The Applicant admits that Phifer sells a product called SUNTEX® which blocks over 75% of the sun's rays.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use a screen that blocked the sun's rays as it would merely involve the alternate utilization of an equivalent screen material to achieve the same exact function.

Therefore, it would have been obvious to combine the Applicant's admissions with Hammond to obtain the invention as specified in claim 4, 5, 8 and 9.

Double Patenting

5. Claims 17 and 18 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 13 and 14. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

6. Claims 13 and 14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: The primary reason for the indication of allowable subject matter is that the prior art of record does not disclose or suggest a window system in which the bottom side of the screen is pinched between the spare tire gate and the back gate of a vehicle, in combination with the other elements recited.

Response to Arguments

8. Applicant's arguments filed September 26, 2003 have been fully considered but they are not persuasive.

Regarding claim 1, The Applicant argues that using the Hammond window in a JEEP® Wrangler® would make the Hammond window inoperable. The Applicant argues that Hammond does not teach that the window is a part of the soft-covering system of the vehicle. However, the body of the claim does not claim that the soft cover window frame is a part of the convertible top. Therefore the Examiner is interpreting the soft cover frame to be the portion of the Hammond window system that supports the window element of the window system. Applicant further states that a JEEP® Wrangler® does not include a window gasket groove. The Examiner disagrees with that statement. There are two types of doors available on convertible

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Wranglers®, one is a door that has a soft window and the other is a hard door which can interact with the hardtop or the soft top. The Examiner knows this has been available since at least 1994.

Regarding claim 17 and 18, the Applicant has argued that the double patenting rejection was improper because claim 13 and 14 required a passenger compartment. However, the limitation is claim 1 for a passenger compartment is only a intended use limitation.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

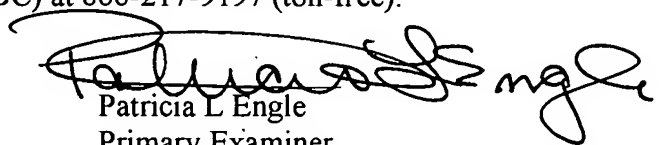
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777.

The examiner can normally be reached on Monday - Friday from 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L Engle
Primary Examiner
Art Unit 3612

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February 16, 2005